NOVA SCOTIA

Environment and Labour

OCCUPATIONAL HEALTH AND SAFETY DIVISION

ANNUAL REPORT

For the year April 1, 2006 to March 31, 2007

TABLE OF CONTENTS

Executive Summary and Highlights i
Introduction 1
Division Mandate, Objectives and Organization 2
Review of the Occupational Health and Safety Act 3
- Court Decisions 3
- Progress on 2005 Divisional Priorities 4
- Progress on 2006/2007 Environment and Labour Business Plan Priorities 6

Review of compliance with the OH&S Act and Regulations 8
- Compliance by the Division 8
- Compliance by Outside Organizations 8

Review of Performance Measures 9
- Business Plan Performance Measures 10
- Quality Management System Objectives and Targets for 2006-2007 13
- Client Satisfaction 14

Review of Divisional Operations 15
- Financial Highlights 15
- Fatality Statistics 15
- Key Divisional Activity Statistics 16
- Prosecution Activity 17

Appendix A - Organizational Chart for the Division 18
Appendix B - Details of Court Decisions 19
Appendix C - Details of 2006/2007 Business Plan Performance Measures 25
Appendix D - Details of Client Satisfaction Surveys 30
Appendix E - Funding Contributions 32
Appendix F - Details of Divisional Activities 33
Appendix G - Prosecution Details 40
Appendix H - Other Items Included as Information 42

Executive Summary and Highlights

The highlights of the Division's operations in 2006/2007 include:

1. The Division worked on two major strategies - Violence and Internal Responsibility. The Division held two stakeholder consultation sessions at the NS Safety Council annual meeting - one on each strategy. Work continued on both strategies at year end.

2. The Division continued work on creating a unified regulatory framework from undersea coal mining in Nova Scotia. In cooperation with the federal government, the Division distributed a "Paper on a Proposed Administrative And Regulatory Framework Regarding Labour, Human Rights and Resource Matters for the Donkin Mine". Work continued on the project at year end.

3. The Nova Scotia Occupational Diving Regulations came into force May 1, 2006. Educational, training and outreach efforts were launched as part of the Diving Safety Strategy.

4. The Division worked on revisions to or creation of:
   a. Summary offence ticket regulations
   b. General Blasting Regulations
   c. Liquefied Natural Gas Regulations
   d. Offshore Accord.

5. The Division finalized development work on a new Activity Tracking System that allows better information on staff activities to be collected and reported. By year end, staff training had started.

6. The Division continued work on an ISO-9001 compliant Quality Management System.

7. Related to the Quality Management System, in the area of client satisfaction, the Division continued its high scores in client satisfaction in the areas of the E-mail question service, the Internet and the publication mail-out.

8. The Division staff performed 2719 field activities in 2006/2007, issuing 6296 orders. These numbers are lower than what have generally been seen over the last five years, but are an increase from 2005/2006. On an Field Activities/Staff Member basis, the activities increased by 6.9 % over the previous year.
   a. Construction continued to have the largest number of Divisional activities of any industry sector. This is driven largely by complaints (the construction industry represents 37.2 percent of all complaints, continuing a 6 year trend as the sector registering the most complaints).

9. The Division, in cooperation with the Tourism Industry Association of Nova Scotia (TIANS), the Halifax Regional Municipality and Police, the Halifax Taxi Drivers' Association, the Cape Breton Regional Municipality and the WCB , wrote the pamphlet "Safety Tips for Taxi Drivers" to promote voluntary compliance with upcoming Violence in the Workplace Regulations. The Division also gained support from TIANS to implement OHS training for all new taxi drivers.

10. The Division trained twelve OHS officers in a new Inspection, Investigation and Prosecution Foundation program. The Division played a vital role in developing this program and staff received the Minister of Environment and Labour's Award of Excellence for this initiative. The program is following through on a five-year commitment to have all Nova Scotia Department of Environment and Labour regulatory staff receive consistent, updated and relevant training as a means to deliver improved client service.

11. The Division participated in the development of national standards by:
    a. Serving on Canadian Standards Association technical committees addressing OH&S management systems, occupational diving, hard hats and guarding
    b. Participating in the review of the WHMIS laws and their potential harmonization with international standards
    c. Serving on various interjurisdictional committees, such as the Canadian Association of Administrators of Labour Legislation.

12. The Division continued to support Environment and Labour projects aimed at developing a comprehensive Regulatory Management Policy.

Introduction

This is the report from the Occupational Health and Safety Division to the Occupational Health and Safety Advisory Council for the period April 1, 2006 to March 31, 2007. These reports are submitted annually in accordance with clause 9(f) of the Occupational Health and Safety Act to report on a review of this Act.

Where injury data is presented, the Division is not the sole source of the data. Thus, the Division cannot answer accurately or in detail as to the origins, source, quality or trends of the data. If such information is required, the reader is encouraged to contact the organizations from which the data came.

This report is divided into six basic areas:

- Division Mandate, Objectives and Organization
- Review of the Occupational Health and Safety Act and associated regulations
- Review of compliance with the OH&S Act and regulations
- Review of Performance Measures
- Review of Divisional Operations
- Other Items Included as Information.

In this document, the following short forms are used:

"Act" means the Occupational Health and Safety Act
"Advisory Council" means the Occupational Health and Safety Advisory Council
"Division" means the Occupational Health and Safety Division of the Nova Scotia Department of Environment and Labour
"HRSD" means Human Resources and Social Development Canada - Labour Program (Occupational Safety and Health).
"IRS" means the internal responsibility system
"OH&S" means occupational health and safety
"SIC" means the Standard Industrial Classification - a number assigned to companies within the same industry
"WCB" means the Workers' Compensation Board of Nova Scotia
"WSIS" means the Workplace Safety and Insurance System, composed of the Division, the WCB, the Workers' Compensation Appeal Tribunal, the Workers' Advisers Program and, participating as appropriate, HRSD.

Division Mandate, Objectives and Organization

The mission of Nova Scotia Environment and Labour (NSEL) is to protect and promote:

- the health and safety of people and protection property;
- a healthy environment;
- employment rights; and
- consumer interests and public confidence in pension services, and in the alcohol and gaming sector.

by delivering effective regulatory and non-regulatory programs that are sustainable and support Government's goals for public health, a clean environment and economic competitiveness.

The Division operates within the Department of Environment and Labour. The Division's Mission Statement, within the context of WSIS, are:

To establish, promote and enforce clear standards to reduce occupational injury and illness.

The objectives of the Division are to:

- together with our partners, reduce the incidence of injury and illness of employees;
- improve the understanding of occupational health and safety standards by all workplace parties;
- improve health and safety conditions in the workplace by means of research, inspection, investigation and enforcement of legislation.

The Division works with a Planning Context that includes the Workplace Safety and Insurance System WSIS). WSIS began in 2002, as the four agencies - WCB, Workers Advisers' Program, Workers' Compensation Appeal Tribunal and the Division - came together to improve client services.

Appendix A gives an organizational chart for the Division.

Review of the Occupational Health and Safety Act

This review of the Occupational Health and Safety Act encompasses two areas:

1. court decisions that have implications for the enforceability or interpretation of the Act
2. progress made on the Division's Priorities as set out in 2005.

Court Decisions:

In 2006/2007, various courts or tribunals made the following decisions/observations that are seen as having an impact on OH&S. Appendix B gives details of these cases.

1. Expanded protection for whistleblowers.
2. Ruled that an OH&S officer's order must detail in some degree the actual weakness that was found.
3. Staying OH&S charges after being told that the prosecution had obtained an investigation report written for the defence.
4. Ruling that the investigative provision of the Environmental Protection Act do not contemplate a telephone inquiry to ascertain the information.
5. Allowing an applicant for a firefighters position to be denied employment due to a moderate hearing loss.
6. Describing a specific OH&S enforcement action as "frivolous and vexatious, if not an abuse of the process of this court."
7. Ruling that a worker can sue fellow employees for a workplace prank but may not sue the employer.
8. Ruling that a defendant is only responsible for the harm that is reasonably forseeable.
9. Ruling that the Crown does not have to establish that the accused had failed to take all reasonable steps to prevent the offences charged.
10. Ruling that an engineer can be held personally liable for faulty design.
11. Ruling against a company's pre-employment drug test policy.
12. Ruling that an owner must disclose a known hazard as soon as practicable to any person reasonably likely to come within the scope of that hazard.

Progress on 2005 Divisional Priorities:

In July, 2005, the Minister stated the Division's priorities for the next several years. The progress on those priorities as of March 31, 2007 is set out below.

Priority	Status	Comments
Repeal Radiation-Emitting Devices Regulations	Completed 2005/2006	
Create Governance and Accountability Framework	Completed 2006/2007	Done in cooperation with WSIS partners
Diving Regulations	Completed 2006/2007	The broad brush Diving Safety Strategy included: - Occupational Diving Regulations to set minimum standards and clarify responsibilities - Diver training courses, in partnership with the Department of Education, the Nova Scotia Community College and HRSD - Plain language guides and interpretations of the strategies points - Several free forms - Training and public awareness sessions throughout the province.
Create strategy to address workplace violence	In progress	Discussion paper distributed. Workshops held to gather input. Estimated completion: Spring, 2008
Create strategy to promote Internal Responsibility System	In progress	Workshops held to gather input. Estimated completion - 2007/2008
General Blasting Regulations	In progress	Estimated completion - Winter, 2007/2008
Amend Underground Mining Regulations	In progress	Being done in concert with the federal government to clarify regulatory issues at the proposed Donkin Coal Mine. Estimated completion - Winter, 2007/2008
Create strategy to address Liquified Natural Gas Regulations	In progress	Draft created. Estimated completion: Spring, 2008
Finalize Offshore Accord	In progress	Negotiations with the federal government and Newfoundland and Labrador continue.

Priority	Status	Comments
Add high hazard offences as Summary Offence Tickets	In progress	Offences identified in concert with Council's Regulation Subcommittee. Estimated completion: Spring, 2008
Create strategy to address falls from heights	Not started	To be prioritized in 2007/2008
Create strategy to address ergonomic injuries	Not started	To be prioritized in 2007/2008
Create strategy to address traffic-related workplace injuries	Not started	To be prioritized in 2007/2008
Create strategy to address chemical exposure	Not started	To be prioritized in 2007/2008

Progress on 2006/2007 Environment and Labour Business Plan Priorities:

In 2006/2007, the Division was also assigned priorities within the larger Department of Environment and Labour Business Plan. The Division's priorities which are not addressed in the update of the 2005 Priorities given above were to:

Contribute to the promotion of continuous improvements . . .

1. By implementing a regulatory policy framework to improve the quality of our regulatory tools, strengthening the consistency and effectiveness of regulatory program performance, establishing a departmental compliance framework and providing meaningful evaluation and measurement tools to enable continuous improvement.
    a. The regulatory management framework established by the Department. In partnership with the WSIS Strategic Goals Advisory Committee, the Division also established performance measures important to stakeholders. We are also continuing to work with the quality management standard conducting internal audits and identifying improvements through the audit or corrective action reports.

2. By encouraging compliance promotion initiatives to improve awareness of regulatory requirements and increase the ability of business to comply with regulatory/ non-regulatory protection objectives.
    a. The Division has been involved with social marketing campaigns through the WSIS agencies. We participate with our clients in information sessions around OHS Division programs, availability of tools to assist our clients and inform them about the laws administered. Introduced strategies to implement standards for occupational diving and the prevention of workplace violence. Opened discussions around best practices for improving workplace health and safety in the province and priorities for future years

3. By improving activity tracking systems by enabling electronic access to client records by inspectors in order to improve the quality and timeliness of client interactions.
    a. By year's end, the development work had been completed on the Activity Tracking System which was built on the provincial Nova Scotia Business Registry System. The system was scheduled for implementation early in the 2007 - 08 fiscal year. Discussions were restarted to include the OHS Division information systems in the MyAccount system developed by the WCB to provide client action with their business information.

Promote safe and healthy workplaces / work practices and safe facilities and equipment

1. Improve the overall safety of Nova Scotia workers through an integrated workplace safety strategy that combines:
    a. effective initiatives on accident prevention and education developed and implemented collaboratively with Workplace Safety Insurance System (and other) partners
        i. The Division undertook joint planning on specific OHS programming with

the WCB. Efforts were also taken to involve other partners such as HRSDC and HPP to align and integrate programming where those opportunities presented themselves. In addition to the introduction of the Diving Strategy in the Spring of 2006, a second strategy discussion document was made public in December of 2006 on the prevention of workplace violence. In March, public consultation were held, in conjunction with a provincial conference, on the issue of preventing workplace violence and improving the internal responsibility system in workplaces.

ii. The Division actively participated on the provincial Comprehensive Workplace Health Strategy.

b. improved compliance with existing laws and regulations

i. With our partners both within government, within WSIS, with employer and employee associations and workplaces, we continued to provide information and opportunities for clients to receive the information they required in the form that they required it. A number of projects were supported financially, social marketing was conducted and our program of inspection and enforcement was maintained.

ii. In cooperation with the Office of Acadian Affairs, we translated into French documents on the Act and OH&S policies and programs.

Regulatory management initiatives will include implementing an effective regulatory regime for underground coal mining, through consultation and collaboration with the Labour Program of Human Resources and Social Development Canada;

a. The Division continued discussions with the federal government for the creation of an effective and efficient regulatory regime throughout the period. Progress was made on many fronts both administrative and in the area of law content. The Undersea Coal Mines Regulation Act (which facilitates a regulatory environment for coal mines operating under the ocean) received first reading on March 29, 2007.

Review of Compliance with the OH&S Act and Regulations

Compliance by the Division

The Act and regulations establish several requirements on the Division. In all cases where the requirement was triggered, the Division met the requirement.

Compliance by Outside Organizations

Compliance by outside organizations who are required to comply with the Act is currently gauged primarily through an IRS Checklist which is administered during certain categories of inspections. The IRS checklist results revealed the following statistics:

No. of workers	Internal Responsibility System Measure	2006/ 2007	2005/ 2006	2004/ 2005	2003/ 2004	2002/ 2003
		(% Yes)				
Less than 5	Does the information available at the workplace meet the requirements of the Act?	55	44	67	57	60
5-19	Does the information available at the workplace meet the requirements of the Act?	63	37	42	56	35
	Does the occupational health and safety policy meet the requirements of the Act?	73	37	43	45	35
20+	Does the information available at the workplace meet the requirements of the Act?	73	48	69	66	60
	Does the occupational health and safety policy meet the requirements of the Act?	77	51	73	68	62
	Does the joint occupational health and safety committee meet the requirements of the Act?	77	51	66	64	41
	Are the functions of joint occupational health and safety committees fulfilled?	71	46	75	66	57
	Does the occupational health and safety program meet the requirements of the Act?	71	53	63	64	49

In interpreting the above results, it is important to realize that there is an inspection targeting system that directs the Division's inspections at organizations with higher accident rates. Thus:

- the results above are NOT indicative of the "average" situation in Nova Scotia companies
- as a result of targeting, the results are most likely biased to under-report actual average conformity with the elements of the IRS. The size of the bias is not known.

Review of Performance Measures

The Division measures its performance in three ways:

1. the outcomes and outcome measures established for the Division in the Department's Business Plan,
2. through compliance with our Quality Management System Objectives
3. surveys of client satisfaction.

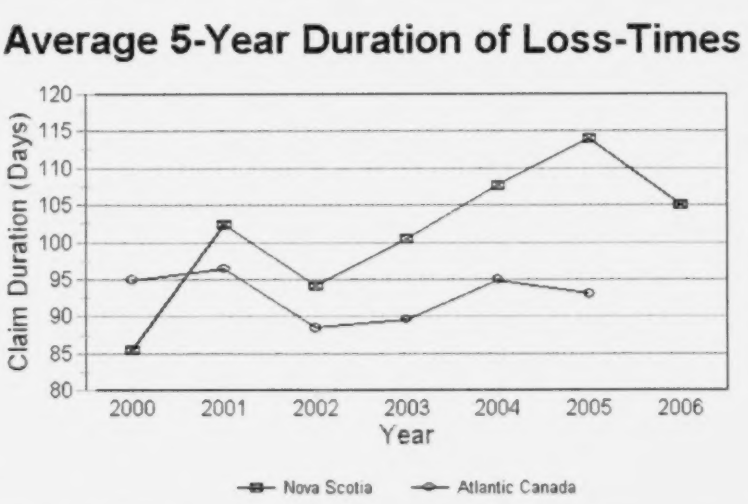
The following sections report on such performance measures.

Business Plan Performance Measures

The Division is accountable for meeting the outcomes and outcome measures noted in the Department's 2006/2007 Business Plan (see http://www.gov.ns.ca/enla/pubs/docs/NSELBusinessPlan06.pdf). These are listed below. Appendix C gives details for all three measures.

Measure Average five-year composite duration of Workers' Compensation lost-time claim compared to the Atlantic Canada average

Target = maintain or decrease the average number of compensable days relative to the Atlantic Canada average



Description of Target, Trend, Comparison/Benchmark:

The target has not been met on an annual basis since 2000. The five year average for the data 114 days per composite claim for Nova Scotia and 93 days per composite claim for the Atlantic Provinces. Claim durations are longer in NS, compared to the Atlantic Provinces and compared to the available data is the highest nationally.

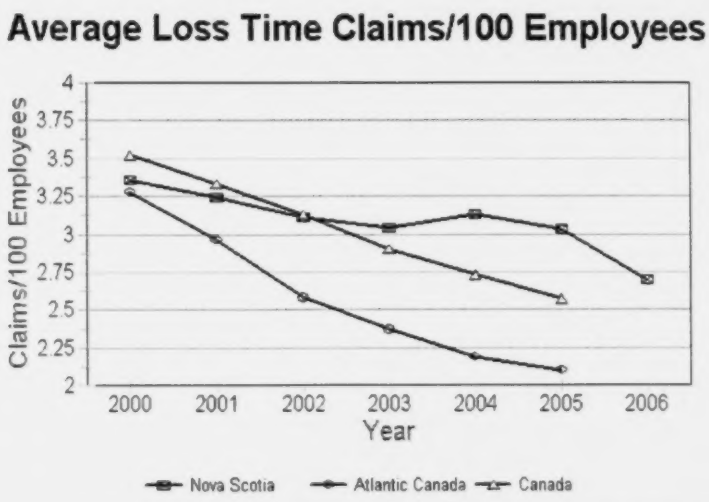
There presently is not a national average as all jurisdictions do not report on the measure to the AWCBC. A time weighted average is used because of the potential for considerable variability in the data from one year to another.

Strategies to Achieve Target:

- work closely with WCB, through WSIS, to identify high accident firms, sectors and type of accidents
- work with the WCB, through WSIS, to increase OH&S promotion and education
- continue to develop a targeted risk-based inspection system which reflects claim duration

Measure	Annual average number of new registered WCB loss time claims per hundred estimated WCB registered employees compared to the national average

Target = maintain or decrease the number of WCB loss time claims compared with the national average



Description of Target, Trend, Comparison/Benchmark:

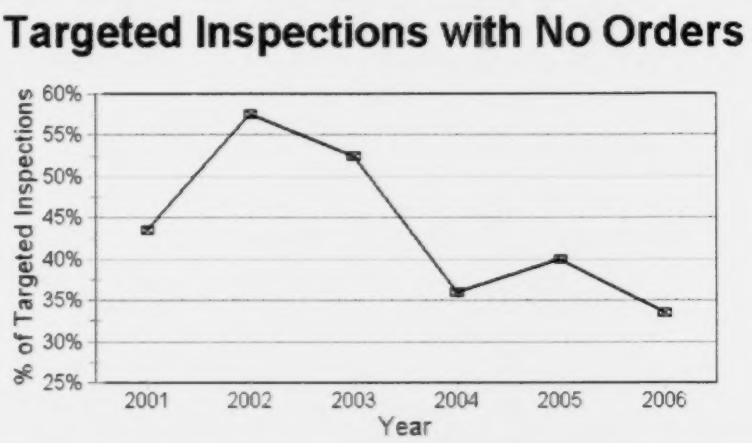
The target has been met in three of the five years reported. The national trend suggests that the rate at which loss time accidents are being reduced is greater in other Canadian jurisdictions when compared to Nova Scotia.

Strategies to Achieve Target:

- work closely with WCB, through WSIS, to identify high accident firms, sectors and type of accidents
- work with the WCB, through WSIS, to increase OH&S promotion and education
- continue to develop a targeted risk-based inspection system which reflects claim duration

Measure	Annual percentage of targeted inspections where an OH&S order is not issued

Target = increase the percentage from the base year measure



Description of Target, Trend, Comparison/Benchmark:

To meet the annual target, the percentage of inspections without orders must be greater than the base year measure of 43.5% (2001). The OHS Division's inspection activity continues to report, based on this measure, the failure of targeted workplaces to be in compliance with the regulated standards.

Strategies to Achieve Target:

- work closely with WCB, through WSIS, to identify high accident firms, sectors and type of accidents
- work with the WCB, through WSIS, to increase OH&S promotion and education
- continue to develop a targeted risk-based inspection system which reflects claim duration

Quality Management System Objectives and Targets for 2006-2007

Quality Objective	What We Measured	Target	2006-2007 Results
Ensure client satisfaction	1. Average client satisfaction based on requested feedback from clients on the Division's services and products, such as publications, e-mail, and website surveys	75%	89%
	2. Requests for service recorded in the CTS will be closed within 7 calendar days from receiving them	70%	84%
	3. Written complaints against staff	<10	2
Ensure consistency	4a. Inspection Reports submitted to managers will be reviewed and compared to the Officer File Review Form; 4b. inspection reports will meet the formatting criteria	10%/ 70%	10%/ 83%
	5. Major investigation files (those that result in a long form report) received by managers will meet the proper format when initially submitted	80%	55%
Ensure timeliness	6.Work refusal investigations will be completed with a decision made in 10 calendar days from the beginning of the investigation	80%	100%
	7. Compliance orders will be complied with within the time frame specified in the order (includes extensions)	80%	56%
	8. Major (excluding prosecutions) investigation files (those that result in a long form report) will be submitted to managers within 6 months from the time of the original incident	80%	47%
	9. Appeals to the Director will be decided within 6 months	80%	40%
	10. Drafts for publications (excluding laws) will be completed within one month of the start date.	80%	13%
Ensure effectiveness and efficiency	11. Orders appealed to the Director are upheld (where the Director has made a decision based on the merits of an order)	80%	75%
	12. Success rate in prosecutions (% of charged entities found Guilty on at least one charge divided by total number of charged entities with respect to which the judge made a decision. Includes summary offence tickets)	60%	87%*
	13. Investigation files will result in a Hazard Alert being issued	20%	0%
	14.Mandatory training for employees working in the Division for 12 months or more (includes retraining)	80%	35%
	15. Documents (excluding laws) prepared by the Division for public use will be at or below the Grade 9 reading level	80%	64%

Notes:

* In the one decided case that did not result in a guilty verdict, the Judge ruled that fishing was federal jurisdiction and thus quashed all charges. In addition to the decided cases, all charges with withdrawn against 2 entities.

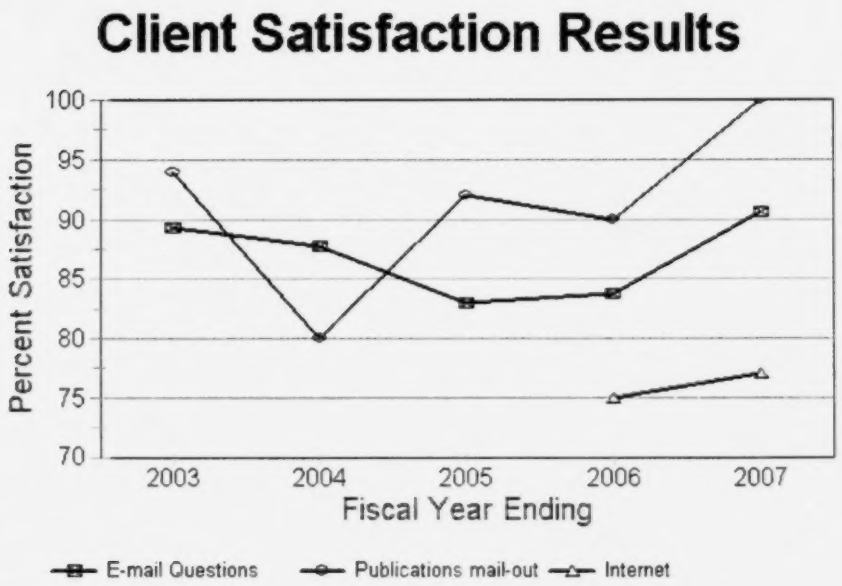
The Division's achievement of the Quality Objectives was mixed, as might be expected from a fledgling Quality Management System. Weaknesses have been highlighted to the Divisional management who are taking steps to meet the targets.

Client Satisfaction

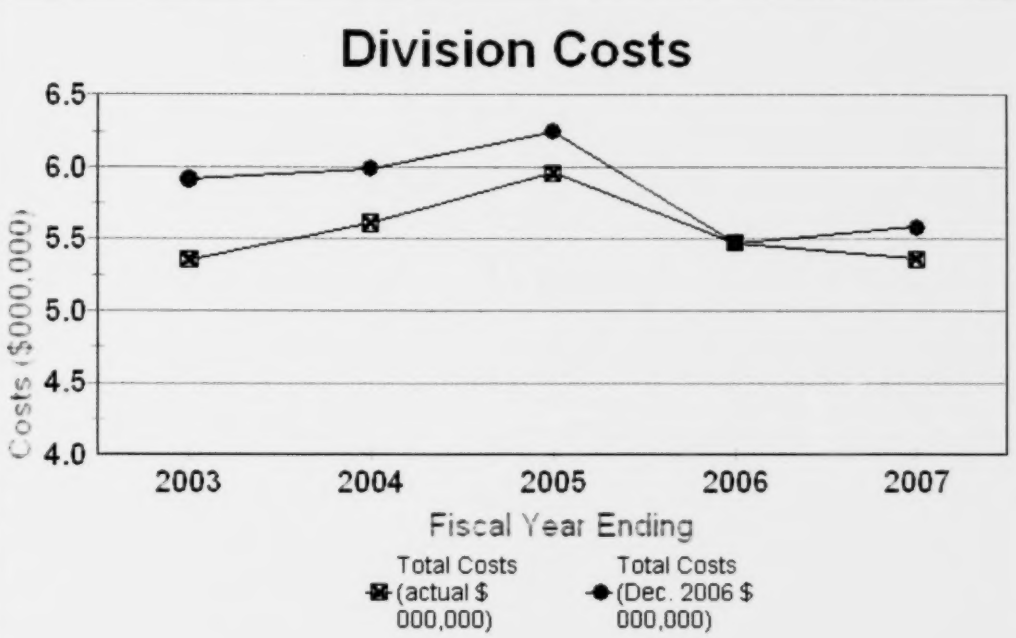
The Division currently measures client satisfaction for three services:

1. the E-mail Question Service (whereby clients may send e-mails to the Division with questions on OH&S laws and receive an e-mailed answer);
2. the publications mail-out service;
3. The Internet.

The current existing surveys gave the results below. Appendix D gives the details of the client satisfaction measures.



Financial Highlights



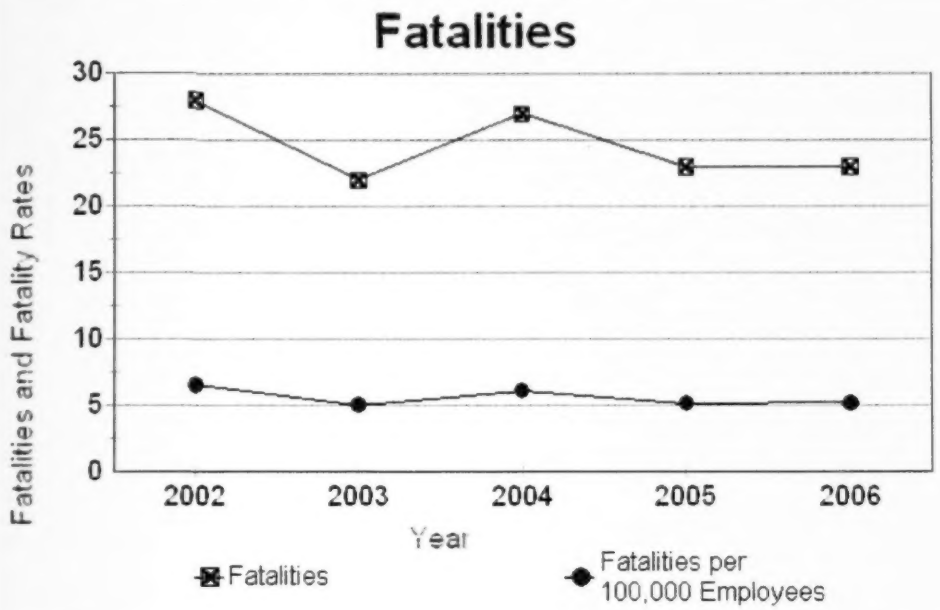
	2006/ 2007	2005/ 2006	2004/ 2005	2003 / 2004	2002 / 2003
Total Costs (actual $000)	5,361	5,475	5,958	5,611	5,358
Total Costs (Dec. 2006 $000)*	5,586	5,475	6,247	5,991	5,915

* Cost data adjusted for inflation. Inflation data from Statistics Canada. Consumer Price Index for first calendar year named in fiscal year (i.e. "2006" for "2006/2007") (see http://www40.statcan.ca/l01/cst01/econ09d.htm)

The Division's revenue comes from two major sources - a statutory transfer from the WCB and an amount from the Government's general funds. In addition, the Division earns a relatively small amount of revenue from the sale of publications to the Government Publications Office (from where they are distributed to the public) and from the certification of blasters and the licensing of magazines.

Appendix E lists major funding contributions made by the Division.

Fatality Statistics



Description	Annual Data (calendar year)					5 Year Average
	2006	2005	2004	2003	2002	
*Fatalities Recorded During the Year	23	23	27	22	28	24
Number of Fatalities Reported per 100,000 Employees	5.21	5.14	6.11	5.05	6.54	5.61

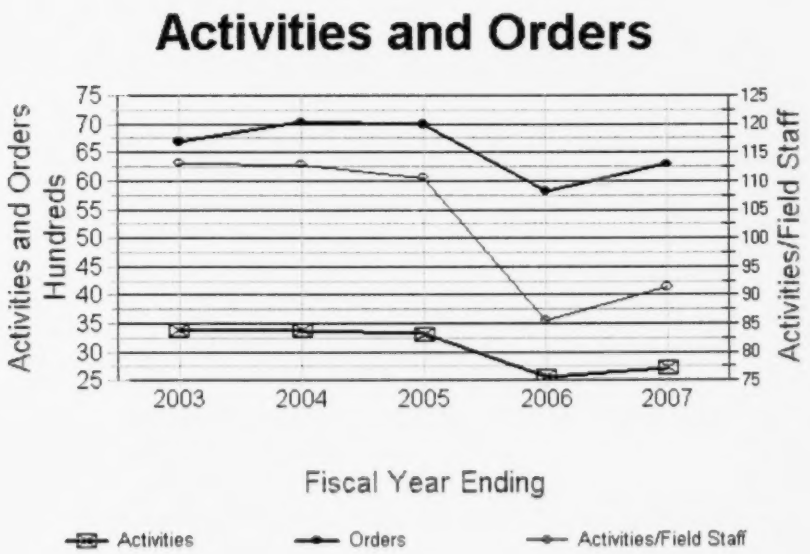
* A workplace fatality is counted by the Division where all of the following are met:

1. The injury that caused the fatality occurred at a place that meets the definition of a 'workplace'
2. At the time of the injury that caused the fatality, the deceased was:
   a. an employee of an organization,
   b. a self-employed person, or
   c. neither an employee nor a self employed person but who, at the time of the fatality, was contributing to work at the workplace
3. The injury that caused the fatality occurred
   a. within the physical boundaries of Nova Scotia, or
   2. occurred outside the physical boundaries of Nova Scotia and involved an employee of an organization or a self-employed person under NS OH&S legislation at the time of the injury that caused the fatality.

Key Divisional Activity Statistics

The below graph gives the number of activities undertaken and orders issued by the Division. Appendix F gives more detailed statistics, including breakdowns of:

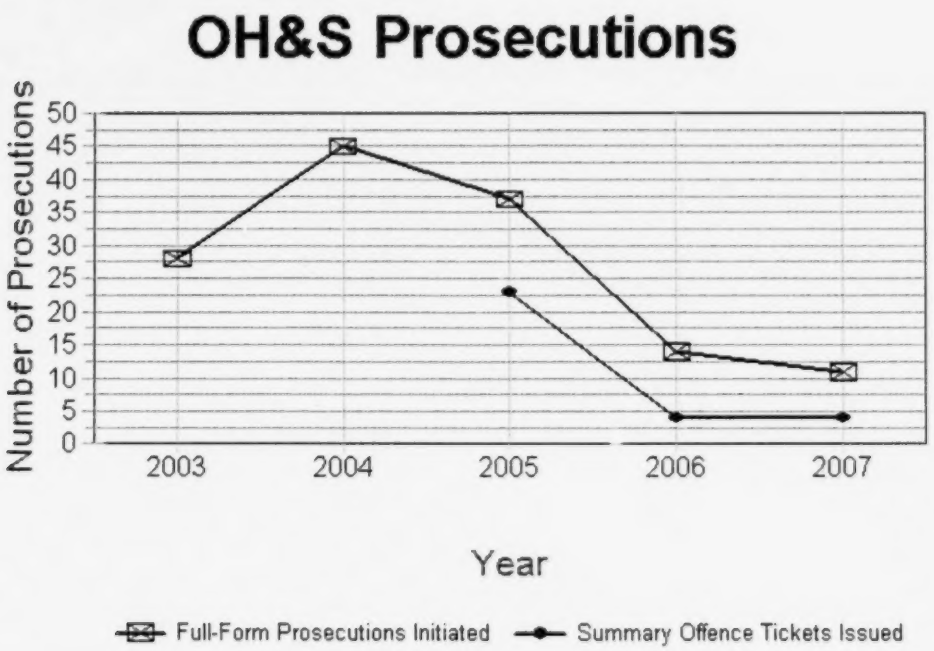
1. Breakdown of activities by type
2. Breakdown of orders by law
3. Activities by Standard Industrial Classification
4. Complaint inspections by Standard Industrial Classification
5. Targeted inspections by Standard Industrial Classification
6. Orders by Standard Industrial Classification
7. Ratio of Activities to Orders by Standard Industrial Classification.



The reader should note that staffing levels have fluctuated in recent years. These fluctuations have a large impact on the numbers of activities and orders.

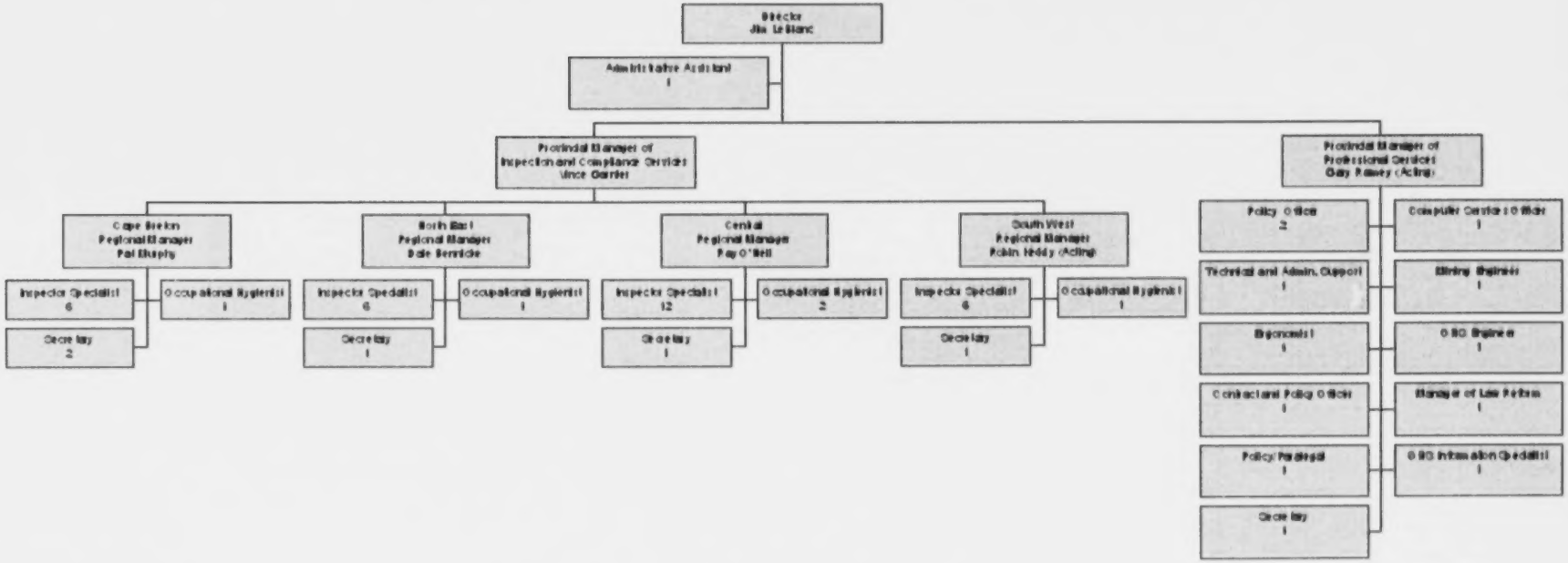
Prosecution Activity

The below graph gives the number of prosecution activities undertaken by the Division. Appendix G gives more detailed statistics.



Appendix A - Organizational Chart for the Division

As of March 31, 2007



Appendix B - Details of Court Decisions

Supreme Court of Canada

Merk v. International Association of Bridge, Structural, Ornamental and Reinforcing Iron Workers, Local 771

In a November, 2005 decision, the Supreme Court of Canada ruled in favour of broader protection for whistleblowers. In Merk v. International Association of Bridge, Structural, Ornamental and Reinforcing Iron Workers, Local 771, the appellant alleged that she was fired as bookeeper and office manager of the respondent trade union because she blew the whistle by informing International Union of Iron Workers representatives of alleged financial misconduct committed by her immediate supervisors at Local 771. Under s. 74(1)(a) of the Saskatchewan Labour Standards Act, no employer can discharge an employee because the employee "has reported . . . to a lawful authority any activity that is or is likely to result in an offence". While the trial judge was satisfied that the financial misconduct amounted to "an offence" and that M was terminated because she reported it, she nevertheless concluded that M had not complained to a "lawful authority". In her view the expression "lawful authority" should be limited to a person or institution authorized by law to deal with the activity as an offence and did not include employers. Both the summary conviction appeal judge and the majority of the Court of Appeal agreed with the interpretation of "lawful authority" adopted by the trial judge.

a. According to the Supreme Court, the expression "lawful authority" in s. 74 of The Labour Standards Act includes not only the police or other agents of the state having authority to deal with the activity complained of "as an offence", but also individuals within the employer organization who exercise lawful authority over the employee(s) complained about, or over the activity that is or is likely to result in the offence.

b. See http://scc.lexum.umontreal.ca/en/2005/2005scc70/2005scc70.html

Ontario Labour Relations Board

Edvac Contracting Ltd. v. Universal Workers Union, Local 183, 2006 CanLII 426

The Ontario Labour Relations Board has ruled that an OH&S officer's order must detail in some degree the actual weakness that was found. The issue revolves around subsection 57(3) of the Ontario OH&S Act, which says; "An order . . . shall indicate generally the nature of the contravention and where appropriate the location of the contravention." Referring to a scaffold where various brackets were found defective (no other deficiency was noted in the reports), the order stated:

1. "The above contravention (numerous steel brackets used as a component of the work platforms and guardral [sic] systems located on the vertical aspect of the formwork were observed broken and damaged) is a danger or hazard to the health and safety worker(s) employed, in, or having access to this workplace, all use or productive work shall stop and be discontinued until this stop work order is withdrawn by an inspector."
2. The Ontario Ministry of Labour argued that the above order required all work on the scaffold to stop until "the Inspector is satisfied that the entire scaffold/work platform [i.e. not just the steel brackets] meets the requirements of [the law]".

The OLRB stated that:

1. "Persons who are served with an Order are entitled to know what their obligations under the

Order are. This is a matter of fairness and natural justice."

2. ". . . an Order that simply recites the statute or regulation and directs the employer to comply is so vague as to be devoid of meaning."
3. The OLRB ruled that compliance with the order would be obtained when the specific issue noted in the order was addressed. The order was **not** interpreted as requiring the entire system to meet the regulatory requirements.

See http://www.canlii.org/on/cas/onlrb/2006/2006onlrb10075.html

Ontario Court of Justice

The Ontario Court of Justice has stayed charges related to a workplace accident against Bruce Power. The Court was told that the prosecution had obtained an investigation report written for the defence. The prosecution obtained the report without a warrant and was supposedly planning to use the report as part of the prosecution. Justice of the Peace Woodworth agreed with the defence and found that the right to a fair trial "has been repeatedly found to be a right that a corporate accused is entitled to and enjoys as well". All charges were dismissed.

Ontario Court of Justice

R. v. Crompton Co.

The Ontario Court of Justice has limited the authority of government inspectors. In a prosecution under the Environmental Protection Act, the defendant was charged with obstruction for failing to provide an inspector with information about a release that the inspector requested over the telephone. The court found that:

1. pursuant to s. 92(3) of the EPA, which reads that a potential polluter "shall give to the Director such additional information in respect of the pollutant … as required by the Director", any additional or follow-up information must be demanded by the Director not the inspector. Thus, once an incident report has been made and once an inspector has obtained the initial information, it is the Director who must demand any follow-up requests that are needed in order to complete the disclosure required by the notice requirements. The delegation of the authority to request further information to an inspector is not contemplated by the legislation.
2. the authority of an inspector to make reasonable inquiries relates only to situations where the inspector attends at the source of the pollution and then conducts an investigation by examining equipment, documents, and interviewing witnesses, but does not contemplate a telephone inquiry to ascertain the information.

See http://www.canlii.org/on/cas/oncj/2004/2004oncj428.html
http://www.wcat.bc.ca/research/decisions/pdf/2006/03/2006-01337.pdf

Ontario Superior Court of Justice

Baldasaro v. Ontario Human Rights Commission, 2006 CanLII 21046 (ON S.C.D.C.); Date: 2006-06-21

The Ontario Superior Court of Justice has refused to overturn an Ontario Human Rights Commission ruling that allowed an applicant for a firefighters position to be denied employment. Baldasaro has a moderate hearing loss in his left ear when he is not wearing a hearing aid. With the aid, his hearing is normal. The City of Toronto uses National Fire Protection Association standards to assess job applicant fitness. These standards require good hearing in both ears without a hearing aid.

While Baldasaro's doctor stated he could perform effectively as a firefighter, an audiologist with expertise in occupational hearing stated that "due to the significant difference in hearing acuity between the applicant's left and right ears, the applicant would not be able to locate the source of sound in a fire situation. In addition, the applicant would have difficulty discriminating speech in a fire situation due to background noise. . . therefore . . . the applicant could not achieve safe and effective hearing during firefighting, either with or without a hearing aid."
In their investigation report, the Ontario Human Rights Commission said:

1. The evidence indicates that the respondent's (Toronto Fire Department's) hearing standard for firefighters is a reasonable and bona fide occupational requirement related to the safe and effective performance of the essential duties of the job.
2. The evidence indicates that the respondent individually assessed the complainant, and did not employ the complainant because he did not meet the required standards.

The court failed to find the Commission decision patently unreasonable and thus refused to intervene.
See http://www.canlii.org/on/cas/onscdc/2006/2006onscdc14359.html

Ontario Court of Justice
R. v. Vipe Construction Ltd., 2006 ONCJ 187 (CanLII); Date: 2006-05-23
The Ontario Court of Justice, in finding an employer not guilty, has adversely commented on Ontario Ministry of Labour actions. The MOL inspectors visited a site of an unshored trench and ordered people out verbally - an order that was complied with. They then left without confirming the order in writing. The MOL officers then visited the site the next day and found the work completed. They tracked down the workers and foreman and issued a stop work order for the previous day's work. There is conflicting testimony whether the order was actually backdated to apply to the day of the first visit.
The company was charged with failing to shore a trench. The Court found that the verbal order was complied with and there was due diligence shown by the company.
Commenting on the MOL officers delivering orders after the work was done, the Court said:
" I would be remiss in my capacity as a Judicial Officer if I were not to comment on the ex post facto actions of the Ministry of Labour inspectors and the Crown in this matter. I make no ruling in this regard save to say that in my view this entire prosecution may be categorized as frivolous and vexatious, if not an abuse of the process of this court. I strongly disapprove of the actions of the Ministry of Labour inspectors . . ."
See http://www.canlii.org/on/cas/oncj/2006/2006oncj187.html
http://www.albertacourts.ab.ca/jdb/2003-/qb/civil/2006/2006abqb0302.cor1.pdf

Ontario Workplace Safety and Insurance Appeals Tribunal
Decision No. 1438/04
The Ontario Workplace Safety and Insurance Appeals Tribunal has ruled that a worker can sue fellow employees for a workplace prank in which the worker was injured but may not sue the employer. The Tribunal found:

1. there was no employment nexus between the prank and the pranksters job duties. Therefore, the Tribunal found that the plaintiffs in the civil action are not barred from proceeding against the pranksters.
2. an incorrect result wold happen if a worker was allowed to proceed with a civil action against his employer in the light of the general provisions against civil action in the

Workplace safety and Insurance System Act and the fundamental principles of workers' compensation legislation (the historic trade-off).

See http://www.lancasterhouse.com/decisions/2005/dec/owsiat-dec1438-04.pdf

Ontario Court of Justice

R. v. North American Food Produce Byers Ltd., 2006 ONCJ 137 (CanLII) Date: 2006-04-13

The Ontario Court of Justice has ruled that, in a prosecution for a workplace accident, a defendant company is only responsible for the harm that is reasonably forseeable. The case involved a worker whose leg was crushed between a pallet truck and a vehicle bumper. Four days later, the worker developed a blood clot in his lungs and died. The company was charged and convicted for failing to inform or train the employee about the proper and safe operation of the powered pallet truck

The issue was the fine, which is normally higher in the case of a fatality than an injury. According to the judge:

"The actual harm that resulted from North American Produce's failure to train or inform Jones about the proper and safe operation of the powered pallet truck . . . occurred in the workplace accident in which Jones suffered a crushing leg injury. Jones' death from the pulmonary embolism was not a reasonable foreseeable consequence in the circumstances from the violation. . . As such, I will only regard this case as a crushing leg injury case to determine the appropriate fine for the offence . . ."

See http://www.canlii.org/on/cas/oncj/2006/2006oncj137.html

Queen's Bench for Saskatchewan

R. V. Jastek Master Builder 2004 Inc. (QB06213 - Date of Judgment: May 10, 2006 - Citation: 2006 SKQB 223)

The Queen's Bench for Saskatchewan has set aside an acquittal on an OH&S charge. The Queen's Bench for Saskatchewan found the trial judge erred:

1. in concluding that an offence under The Occupational Health and Safety Act requires evidence of a long-standing failure to comply with the requirements of the Act or the Regulations and that all of the elements of the offence cannot be established by a single work site inspection.
2. by placing the onus on the Crown to establish that the accused had failed to take all reasonable steps to prevent the offences charged when the onus is that of Respondent to establish due diligence.

The Queen's Bench for Saskatchewan ordered a new trial.

See http://www.lawsociety.sk.ca/newlook/Library/fulltextnew.htm and search for "Jastek" in "Name (Style of Cause)"

Court of Queen's Bench of Manitoba

Brett-young Seeds Limited, and Brett-young Seeds (Gilbert Plains) and K.b.a. Consultants Inc. and David Wolfrom

The Court of Queen's Bench of Manitoba has ruled that an engineer can be held personally liable for faulty design. The engineer argued that the claim against him should be dropped because, although he performed the impugned work, he did so on behalf of a limited liability corporation, and there is no reason to "pierce the corporate veil". The judge ruled that a negligence claim is personal to the individual who is allegedly negligent. The person whose negligence causes the

damage is responsible in tort. The corporation on whose behalf the employee performs the services is also liable for negligent services performed on its behalf.
See http://www.canlii.org/mb/cas/mbqb/2006/2006mbqb78.html

Court of Queen's Bench of Alberta
Alberta (Human Rights and Citizenship Commission) v. Kellogg Brown & Root (Canada) Company, 2006 ABQB 302, Date: 20050515
The Court of Queen's Bench of Alberta has overturned the Alberta Human Rights and Citizenship Commission and ruled that Kellogg, Brown & Root Company (KBR) was wrong to fire an employee after he tested positive for marijuana in a pre-employment drug test. The Alberta Human Rights and Citizenship Commission dismissed the initial complaint, arguing that KBR had no reason to perceive disability in the employee's case. Thus, the firing could not have been a result of a disability.
The court struck down the firm's pre-employment drug testing policy, finding it was in violation of the provincial human rights law. KBR was ordered to revise its drug and alcohol policies. KBR must discontinue its pre-employment drug testing, or alternatively, if it can demonstrate that pre-employment testing is necessary for deterring impairment on the job, it must offer a process of assessment or accommodation to individuals failing a pre-employment drug tests. KBR's pre-employment test treated the employee as an addict, even though the employer's evidence is that only ten percent of those who test positive are likely to be impaired at work, the decision said. "Not only does that mean that there is discrimination against those who are addicted, it treats the other ninety percent as if they were addicted and would be impaired at work," Judge Sheilah Martin states. Issues raised at trial included:

1. The fact that the employer chose to allow the employee to work without receipt of the test results for nine days "[called] into question its claim that such testing is essential and that [the employee] worked in a safety sensitive position"
2. Despite the positive drug test, the employee was not noticeably impaired at work and the employer rated his work highly.
3. The fact that the employee could have been treated as an existing employee for the purpose of determining the level of accommodation required. Non-unionized KBR employees who test positive in post-accident or reasonable cause testing are not fired, but kept on salary and referred to the employment assistance program for assessment.

See

British Columbia Workers' Compensation Appeal Tribunal
Decision: WCAT-2006-01337
The British Columbia Workers' Compensation Appeal Tribunal has upheld a $12 433 penalty against a building owner who failed to tell tenants there was loose asbestos on top of the ceiling tiles. The asbestos was found when renovations were being done on the fourth floor.
In making the finding, the WCAT rejected the owner's argument that the owner used a two-step approach:

1. First, the owner stated that it required written notice before any tenant carried out work in the building
2. Second, as soon as the owner was notified of such proposed work, owner would then inform the tenant or contractor of the presence of asbestos in the relevant area of the Building.

In this case, the tenant did not notify the owner of the planned renovations. Consequently, the

owner argued that this effectively deprived the owner of the opportunity to discharge its obligation to provide information to the tenant regarding the presence of asbestos.
The WCAT ruled that an owner will not generally discharge its obligations by providing information of a potential hazard only at such time as the owner is aware of a specific person's intention to engage in an activity likely to fall within the scope of that hazard. Such an interpretation was seen as unduly technical and restrictive.
The WCAT ruled that the law requires an owner to disclose a known hazard as soon as practicable to any person reasonably likely to come within the scope of that hazard. Although an owner's duty is flexible and will vary depending on the precise circumstances, given that asbestos poses a significant health hazard and uncontrolled asbestos dust was lying on top of easily moved ceiling tiles, the risk of exposure to the asbestos hazard in the absence of advance warning was not remote. Therefore, it was incumbent on the owner to notify its tenants of the presence of asbestos in the Building.

Appendix C - Details of 2006/2007 Business Plan Performance Measures

Measure:	Average five-year composite duration of Workers' Compensation lost-time claim compared to the Atlantic Canada average

Definition of Measure:

- The Workers' Compensation Board compiles accident duration data and number of accident claims. Each jurisdiction submits its statistics to a national association the Association of Workers' Compensation Board of Canada (AWCBC) who publishes comparative data based on the submitted information.
- Definition
  The estimated total number of calendar days compensated for short-term disability over the first five calendar years of duration/lifetime of a typical lost-time claim if current conditions are continued for the future years. Short-term disability benefits are all income benefits during the initial period after the injury, before the injury has stabilized, plateaued or consolidated.
- Calculation
  The composite method is the days paid in the reference year for each accident year, divided by the number of lost-time claims of the corresponding accident year, then the results are added together for the designated number of years. All short-term disability benefits related to income loss including rehabilitation benefits are included up to the point where long-term disability benefits commence. The current year plus four prior accident years are to be used in the calculation.

a = total number of compensable days paid for all compensable time loss claims in a given year
b = total number of time loss claims filed in a given year

Measure (days) $=(a_{(year)}/b_{(year)} + a_{(year-1)}/b_{(year-1)} + a_{(year-2)}/b_{(year-2)} + a_{(year-3)}/b_{(year-3)} + a_{(year-4)}/b_{(year-4)})$

Target = maintain or decrease the average number of compensable days relative to the Atlantic Canada average

Rationale for Selecting Measure:

- NSEL works with employers and employees to promote compliance with a legislative framework that is reflective of current workplace standards. By creating safe and healthy work environments, we minimize workplace hazards and risk, which reduces the likelihood of accidents resulting in workers compensation claims. This measure provides a system measure of injury severity, based on the assumption that the longer a worker is receiving benefits, the more severe the injury. It is important to note that claim duration may be influenced by factors other than severity of injury. Injury severity is a WCB system cost driver and is related to the effectiveness of return to work efforts and disability management. This measure tries to reflect the number of days lost from work.

Annual Data: (calendar year)	2000	2001	2002	2003	2004	2005	2006
Nova Scotia	85.54	102.4	94.18	100.5	107.7	114	105
Atlantic Canada	94.87	96.4	88.41	89.5	94.91	93	NA
Canada	NA	NA	NA	NA	NA	70.1	NA

Description of Target, Trend, Comparison/Benchmark:

The target is calculated annually, based on the Atlantic Canada average number of compensable days. To meet the target in 2005, the five-year composite number of compensable days for all time loss claims in Nova Scotia must be equal to or less than the Atlantic Canada average.

As the data indicates, the target has not been met on an annual basis since 2000. The five year average for the data 114 days per composite claim for Nova Scotia and 93 days per composite claim for the Atlantic Provinces. Claim durations are longer in NS, compared to the Atlantic Provinces and compared to the available data is the highest nationally.

There presently is not a national average as all jurisdictions do not report on the measure to the AWCBC. A time weighted average is used because of the potential for considerable variability in the data from one year to another.

Strategies to Achieve Target:

- work closely with WCB, through WSIS, to identify high accident firms, sectors and type of accidents
- work with the WCB, through WSIS, to increase OH&S promotion and education
- continue to develop a targeted risk-based inspection system which reflects claim duration

Other Comments:

The Division operates on a targeted inspection system which is based on industry risks, accident rates and past experiences with an employer. The targeting criteria is designed by the WCB and is intended to take officers to work sites that are problematic and have an above average record of accidents and costs.

Measure: Annual average number of new registered WCB loss time claims per hundred estimated WCB registered employees compared to the national average

Definition of Measure:

- The WCB compiles statistics related to accident numbers. Each jurisdiction submits its statistics to a national association the Association of Workers' Compensation Board of Canada (AWCBC) who publishes comparative data based on the submitted information.
- **Definition**
  Number of new lost-time claims for assessable employers per 100 workers of assessable employers.
- **Calculation**
  a = total number of new lost-time claims for assessable employers
  b = estimated number of workers of assessable employers or self-employed workers opting for coverage. The reliability of the injury frequency is subject to limitations of its denominator, described in the calculation of the percentage of workforce covered.

Measure (claims /100 WCB covered employees) = 100 x (a/b)

Target = maintain or decrease the number of WCB loss time claims compared with the national average

Rationale for Selecting Measure:

To measure the risk of workplace injury for workers in each jurisdiction in terms of the proportion of workers who suffer a lost-time work injury.

The average number of registered WCB loss time claims per hundred employees reflects the number of workplace accidents occurring in WCB covered work sites. The measure allows government to monitor trends.

Data: (calendar year)	**2000**	**2001**	**2002**	**2003**	**2004**	**2005**	**2006**
Nova Scotia	3.36	3.24	3.11	3.04	3.13	3.03	2.7
Atlantic Canada	3.28	2.96	2.58	2.37	2.19	2.1	NA
Canada	3.52	3.33	3.13	2.9	2.73	2.57	NA

Description of Target, Trend, Comparison/Benchmark:

The target is revised annually, based on the data reported by all Canadian jurisdictions. To meet the target the number of registered WCB claims per 100 employees must be equal to or less than the national average.

The target has been met in three of the five years reported. The national trend suggests that the rate at which loss time accidents are being reduced is greater in other Canadian jurisdictions when compared to Nova Scotia.

Strategies to Achieve Target:

- work closely with WCB, through WSIS, to identify high accident firms, sectors and type of accidents
- work with the WCB, through WSIS, to increase OH&S promotion and education
- continue to develop a targeted risk-based inspection system which reflects claim duration

Other Comments:

The Division operates on a targeted inspection system which is based on industry risks, accident rates and past experiences with an employer. The targeting criteria is designed by the WCB and is intended to take officers to work sites that are problematic and have an above average record of accidents and costs.

Measure: Annual percentage of targeted inspections where an OH&S order is not issued

Definition of Measure:

- The OH&S inspection system targets firms with accident experience and costs that are higher than the average for their industry sector.
- The measure is intended to identify the percentage of targeted employers who are inspected and do not receive an order as a result of that inspection, indicting that they are complying with the provisions of the occupational health and safety laws.

a = number of OH&S targeted inspections in the calendar year
b = number of OH&S targeted inspections for which no orders were issued

Measure (%) = 100 x (b/a) Target = increase the percentage from the base year measure

Rationale for Selecting Measure:

DEL promotes compliance with OH&S laws that reflect current workplace standards. Workplace inspections provide an opportunity to ensure compliance with these laws. If an officer finds a workplace is not in compliance with the laws, an order will be issued. Tracking the total number of targeted inspections where an order is not issued helps provide a picture of compliance levels within these targeted workplaces. From this measure the department can monitor trends in compliance levels.

Data: (calendar year)*	**2001**	**2002**	**2003**	**2004**	**2005**	**2006**	
Nova Scotia	43.5%	57.5%	52.5%	36%	40%	33.5%	

* percentage of OH&S targeted inspections where an order is not issued

Description of Target, Trend, Comparison/Benchmark:

To meet the annual target, the percentage of inspections without orders must be greater than the base year measure of 43.5% (2001). The OHS Division's inspection activity continues to report, based on this measure, the failure of targeted workplaces to be in compliance with the regulated standards.

Strategies to Achieve Target:

- work closely with WCB, through WSIS, to identify high accident firms, sectors and type of accidents
- work with the WCB, through WSIS, to increase OH&S promotion and education
- continue to develop a targeted risk-based inspection system which reflects claim duration

Other Comments:

The Division operates on a targeted inspection system which is based on industry risks, accident rates and past experiences with an employer. The targeting criteria is designed by the WCB and is intended to take officers to work sites that are problematic and have an above average record of accidents and costs.

Appendix D - Details of Client Satisfaction Surveys

E-Mail Question Service Client Satisfaction:

Question	Percent of maximum score				
	2006/ 2007	2005/ 2006	2004/ 2005	2003/ 2004	2002/ 2003
The information answered my question.	85.33	81.8	83	82.2	86.5
The information was clear, concise and understandable.	85.33	82.4	82.9	80.7	87
The information was received within an acceptable time frame.	90.67	90.5	86.9	87.9	86.8
You are pleased with the service you received.	90.67	83.8	83	87.7	89.3
Average	**88.0**	**84.6**	**83.9**	**84.6**	**87.4**

Publications Mail-Out Service Client Satisfaction:

Question	2006/ 2007	2005/ 2006	2004/ 2005	2003/ 2004	2002/ 2003
Material received within an acceptable time (% Yes)	100	96	100	-	100
Correct material received (% Yes)	100	68	99	-	0
Friendliness (1-5 scale)	5.0	4.6	4.5	4.5	4.6
Laws well written (1-5 scale)	4.0	3.9	3.5	3.5	3.9
Laws interesting (1-5 scale)	3.4	3.6	3.7	4.0	3.7
Other materials well written (1-5 scale)	4.6	3.6	3.8	4.0	4.2
Other materials interesting (1-5 scale)	4.4	3.4	3.2	4.0	3.9
Overall satisfcation (1-5 scale)	5.0	4.5	4.6	4.0	4.7
% respondents self-identified as "Management"	60%	32%	74%	-	-
% respondents self-identified as "JOHSC members"	60%	61%	53%	-	-

- Result not available.
1 = Worst 5 = Best

Internet Satisfaction:

Question	2006/ 2007	2005/ 2006
How would you rate the site navigation?	71%	65 %
How would you rate the site's visual appeal	71%	66 %
How would you rate the ability to find what you want quickly?	64%	41 %
How would you rate the site's search abilities?	67%	50 %
How would you rate the site's overall usefulness?	77%	75 %

Improve Response to Client Requests For Service

In addition to surveys, the Division sees the time required to respond to a complaint as a measure of client satisfaction. This parameter is measured through the length of time before the initial investigation of a complaint by an OH&S officer. The length of time before the initial investigation of complaints by an OH&S officer is as follows:

	2006/ 2007	2005/ 2006	2004/ 2005	2003/2004 (Jan. 1st, 04 - > Mar. 31st, 04)
Number of complaints received	1,370	1,181	1,200	224
Average number of days between receipt of complaint and inspection (if one is conducted)	7.9	8.75	8.71	7.63
Number of complaints for which no follow-up inspection was performed*	272	238	235	57

* While it is standard procedure for the Division to follow-up on all complaints, there are some for which this is not appropriate or possible. Such complaints include:

1) operation that was the subject of the complaint is transient and was no longer in existence by the time an officer could investigate

2) complainant gives incorrect information which does not allow the operation that was the subject of the complaint to be identified

3) the operation that is the subject of the complaint is within the jurisdiction of
   i) the federal government
   ii) the Labour Standards Division
   iii) other government agency.

   In such cases, the complaint is referred to the appropriate agency for follow-up.

Appendix E - Funding Contributions

Skills Nova Scotia-Canada Competition
The Division supported the Annual National Skills Competition which was hosted in Halifax, Nova Scotia. Staff persons were permitted to assist with ensuring that the competitors were complying with OHS legislation, and the Division provided a monetary contribution as well.

Canadian Centre for Occupational Health and Safety
The Canadian Centre for Occupational Health and Safety (CCOHS) is a Canadian federal government agency based in Hamilton, Ontario, which serves to support the vision of eliminating all Canadian work-related illnesses and injuries. As in past years to OHS Division contributed with other Canadian jurisdictions on a per capita basis to maintained the no charge Inquiry Service operated by the CCOHS.

Canadian Standards Association
The Canadian Standards Association is a not-for-profit membership-based association serving business, industry, government and consumers in Canada and the global marketplace. As in past years to OHS Division contributed with other Canadian jurisdictions on a per capita basis to develop a series of occupational health and safety related standards.

Nova Scotia Safety Council
The Nova Scotia Safety Council (NSCC) was founded in 1958, under the name "The Nova Scotia Highway Safety Council", as a private, non-profit, non-government organization, its mission is to make safety and health a way of life and to be the centre of excellence for safety and health. As in past years to OHS Division contributed some base funding to allow the NSSC to offer its annual conference which was held in March of 2006.

Day of Mourning
The national Day of Mourning recognizes each April 28th as a day of reflection for workers who have been injured or died at work. Again this year the Province hosted the annual ceremony and reception at Province House.

North America Occupational Safety and Health Week
The North America Occupational Safety and Health (NAOSH) Week is an annual event to draw attention to workplace health and safety. This year the OHS Division provided some funding and support to the events planned within the province.

Underground Coal Mining Safety Research Consortium
The Underground Coal Mining Safety Research Consortium funds health and safety-related research projects aimed at reducing incidents of all types at Canadian underground coal mines.

Nova Scotia Crime Stoppers Association
The Division gave a grant to the Nova Scotia Crime Stoppers Association.

Valley Disability Partnership
The Division gave a grant to the Valley Disability Partnership.

Appendix F - Details of Divisional Activities

Tracked Activities

Tracked Activity	2006/2007	2005/2006	2004 / 2005	2003 / 2004	2002 / 2003
Division Field Activities					
Fatalities Investigated**	10	16	16	19	9
Work Refusals Investigated	13	17	28	15	8
General Inspections	697	861	1,004	1,460	1,039
Targeted Inspections	363	201	448	266	641
Joint Inspections	2	3	9	7	27
Re-Inspections	348	347	512	503	455
Complaints Investigated	958	800	873	805	834
Incidents Investigated	284	286	350	272	302
Discriminatory Action Complaints	44	35	76	41	69
Total Field Activities	2,719	2,566	3,316	3,388	3,384
Field Staff Full-time Equivalents Available	29.75	30	30	30	29.9
Field Activities/Staff Member	91	86	111	113	113
Appeals					
Appeals of Officer Decisions	19	13	31	10	25
Appeals of Director Decisions	7	3	4	6	8
Total Appeals	26	16	35	16	33
Prosecutions					
Full-Form Prosecutions Initiated	11	14	37	45	28
Summary Offence Tickets Issued	4	4	23	*	*
Total prosecutions	15	18	60	45	28

* The power to issue summary offence tickets was not in place at this time.

** Fatalities investigated only include provincial jurisdiction fatalities for which a workplace still exists

Orders Issued

Category	Number of Orders Issued				
	2006/ 2007	2005/ 2006	2004 / 2005	2003 / 2004	2002 / 2003
Orders Issued Under the Acts					
Stop Work Orders	108	103	109	123	141
Deviations Granted	39	9	22	24	18
Codes of Practice Required Under Act	30	37	8	34	9
Total Occupational Health and Safety Act Orders (including the 3 categories listed above)	1,876	1,996	2,366	2,143	2,157
Smoke-free Places Act	29	39	68	25	**
Orders Issued Under the Regulations					
Fall Protection & Scaffolding Regulations	358	331	604	618	604
First Aid Regulations	775	636	696	798	787
General Blasting Regulations	12	22	29	15	18
Occupational Health Regulations	9	16	18	35	27
Occupational Safety General Regulations	2,603	2,291	2,621	2,684	2,533
Temporary Workplace Traffic Control Regs.	83	84	42	7	26
WHMIS Regulations	542	389	475	559	540
Smoke-free Places Regulations	0	1	15	21	*
Underground Mining Regulations	9	14	57	128	*
TOTAL	**6,296**	**5,819**	**6,991**	**7,033**	**6,692**

* These laws did not exist at this time.

Distribution of Divisional Activities by Industry (%)

Industry	SIC Range	2006/ 2007	2005/ 2006	2004 / 2005	2003 / 2004	2002 / 2003
Accommodation, Food, and Beverage	9000-9599	5.4	3.8	6.4	5.2	6.5
Agricultural and Related Services	0000-0299	1.9	2.5	1.9	2.1	2.3
Business Services	7700-7999	3.0	2.6	2.5	1.8	1.2
Communications	4800-4999	0.9	1.2	0.9	1.0	1.2
Construction	4000-4499	30.1	33.4	27.8	26.5	32.0
Education Services	8500-8599	0.6	0.7	1.0	1.2	1.2
Finance and Insurance	7000-7499	0.4	0.2	0.4	0.2	0.6
Fishing and Trapping	0300-0399	1.2	1.4	1.3	1.2	1.2
Government Services	8000-8499	6.3	6.4	6.0	6.1	6.7
Health and Social Services	8600-8999	5.6	3.5	5.0	3.9	3.3
Logging and Forestry	0400-0599	1.2	0.8	1.0	1.3	1.7
Manufacturing	1000-3999	16.1	15.6	15.8	14.5	14.6
Mining, Quarrying, and Oil	0600-0999	2.7	3.4	2.8	3.0	2.5
Other Services	9600-9999	3.8	5.2	4.8	5.4	4.7
Real Estate / Insurance	7500-7699	0.7	0.7	0.9	1.1	0.9
Retail Trade	6000-6999	13.3	11.4	13.5	14.4	12.6
Transportation and Storage Industries	4500-4799	1.7	2.3	2.2	1.8	2.5
Wholesale Trade	5000-5999	4.9	4.8	5.6	5.6	4.2

Distribution of Complaint Inspections by Industry Type (%)

Industry	SIC Range	2006/ 2007	2005/ 2006	2004 / 2005	2003 / 2004	2002 / 2003
Accommodation, Food, and Beverage	9000-9599	3.5	3.6	5.1	4.8	4.1
Agricultural and Related Services	0000-0299	1.5	2.0	2.0	1.1	2.0
Business Services	7700-7999	4.9	3.6	3.2	2.9	2.4
Communications	4800-4999	0.9	1.0	2.0	1.1	1.7
Construction	4000-4499	37.2	37.0	41.8	40.0	43.3
Education Services	8500-8599	0.8	0.7	0.7	1.2	2.2
Finance and Insurance	7000-7499	0.7	0.5	0.3	0.0	1.2
Fishing and Trapping	0300-0399	0.7	1.7	0.8	1.1	1.0
Government Services	8000-8499	7..9	8.1	5.3	6.7	6.0
Health and Social Services	8600-8999	4.2	3.7	2.4	3.5	3.2
Logging and Forestry	0400-0599	1.0	0.9	0.9	0.5	0.7
Manufacturing	1000-3999	14.4	14.5	14.5	11.6	11.3
Mining, Quarrying, and Oil	0600-0999	1.9	2.1	0.5	0.6	1.0
Other Services	9600-9999	5.6	5.3	6.0	6.3	5.6
Real Estate / Insurance	7500-7699	1.5	1.5	2.3	2.9	1.9
Retail Trade	6000-6999	6.4	7.9	4.8	7.0	6.2
Transportation and Storage Industries	4500-4799	1.8	2.5	2.5	1.6	2.2
Wholesale Trade	5000-5999	4.5	3.6	4.6	4.1	4.1

Distribution of Targeted Inspections By Industry (%)

Industry	SIC Range	2006/2007	2005/2006	2004 / 2005	2003 / 2004
Accommodation, Food, and Beverage	9000-9599	12.3	3.4	15.4	8.6
Agricultural and Related Services	0000-0299	1.0	2.4	1.6	4.1
Business Services	7700-7999	1.6	2.4	2.7	0.8
Communications	4800-4999	0.8	1.5	0.9	0.4
Construction	4000-4499	9.9	16.1	12.3	17.3
Education Services	8500-8599	0.3	0.0	0.0	0.0
Finance and Insurance	7000-7499	0.3	0.0	0.7	0.4
Fishing and Trapping	0300-0399	2.1	2.9	1.3	1.1
Government Services	8000-8499	4.2	5.4	5.1	3.8
Health and Social Services	8600-8999	13.8	7.3	9.2	6.8
Logging and Forestry	0400-0599	2.3	0.5	1.8	3.8
Manufacturing	1000-3999	19.8	22.4	16.5	16.5
Mining, Quarrying, and Oil	0600-0999	1.3	0.0	0.9	0.8
Other Services	9600-9999	3.1	8.3	3.8	2.6
Real Estate / Insurance	7500-7699	0.8	0.0	0.2	0.4
Retail Trade	6000-6999	18.0	17.1	17.9	18.8
Transportation and Storage Industries	4500-4799	3.4	2.0	3.8	3.0
Wholesale Trade	5000-5999	4.4	8.3	5.8	8.6

Distribution of Orders By Industry (%)

Industry	SIC Range	2006/ 2007	2005/ 2006	2004 / 2005	2003 / 2004	2002 / 2003
Accommodation, Food, and Beverage	9000-9599	6.4	4.2	9.4	5.7	9.5
Agricultural and Related Services	0000-0299	1.1	2.4	0.7	2.8	1.6
Business Services	7700-7999	1.9	2.7	2.2	1.2	0.9
Communications	4800-4999	0.8	0.6	0.4	0.7	1.1
Construction	4000-4499	21.8	32.6	24.5	24.2	26.2
Education Services	8500-8599	0.5	0.4	0.6	0.8	0.5
Finance and Insurance	7000-7499	0.5	0.1	0.3	0.0	0.3
Fishing and Trapping	0300-0399	0.6	0.9	0.7	0.8	0.6
Government Services	8000-8499	2.9	4.6	2.7	3.5	4.2
Health and Social Services	8600-8999	3.8	1.9	3.0	2.7	2.2
Logging and Forestry	0400-0599	0.8	0.8	1.0	0.9	0.5
Manufacturing	1000-3999	19.1	15.0	16.6	16.6	16.6
Mining, Quarrying, and Oil	0600-0999	3.1	2.3	2.9	3.7	1.2
Other Services	9600-9999	3.7	5.1	4.7	4.8	6.0
Real Estate / Insurance	7500-7699	0.5	0.4	1.3	1.4	1.1
Retail Trade	6000-6999	22.4	18.0	18.9	17.4	19.3
Transportation and Storage Industries	4500-4799	1.1	2.0	2.6	2.1	1.5
Wholesale Trade	5000-5999	8.4	5.9	7.2	7.1	6.5

Ratio of Orders to Activities by Industry +

Industry	SIC Range	2006/ 2007	2005/ 2006	2004 / 2005	2003 / 2004	2002 / 2003
Accommodation, Food, and Beverage	9000-9599	1.2	1.4	1.5	1.1	1.5
Agr icultural and Related Services	0000-0299	0.6	0.4	0.4	1.3	0.7
Business Services	7700-7999	0.6	0.6	0.9	0.7	0.8
Communications	4800-4999	0.9	0.6	0.4	0.7	0.9
Construction	4000-4499	0.7	0.6	0.9	0.9	0.8
Education Services	8500-8599	0.8	0.7	0.6	0.7	0.4
Finance and Insurance	7000-7499	1.3	2.0	0.8	0.0	0.5
Fishing and Trapping	0300-0399	0.5	0.4	0.5	0.7	0.5
Government Services	8000-8499	0.5	0.4	0.5	0.6	0.6
Health and Social Services	8600-8999	0.7	0.9	0.6	0.7	0.7
Logging and Forestry	0400-0599	0.7	0.9	1.0	0.7	0.3
Manufacturing	1000-3999	1.2	1.0	1.1	1.1	1.1
Mining, Quarrying, and Oil	0600-0999	1.1	0.8	1.0	1.2	0.5
Other Services	9600-9999	1.0	0.6	1.0	0.9	1.3
Real Estate / Insurance	7500-7699	0.7	0.6	1.4	1.3	1.2
Retail Trade	6000-6999	1.7	1.6	1.4	1.2	1.5
Transportation and Storage Industries	4500-4799	0.6	0.4	1.2	1.2	0.6
Wholesale Trade	5000-5999	1.7	1.5	1.3	1.3	1.5

+ A value of 1.0 indicates an "average" number of orders were issued per activity in a particular industry sector. Values above 1 suggest that, on average, more orders were issued per activity in this sector; values below 1 suggest that, on average, fewer orders were issued per activity in this sector.

Appendix G - Prosecution Details

Prosecution Breakdown

Parameter	**Charges Decided**				
	2006/ 2007	**2005/ 2006**	**2004 / 2005**	**2003 / 2004**	**2002 / 2003**
Full Form Prosecutions Decided	10	25	45	36	NA
Full Form Charges Decided					
Guilty	8	12	57	48	19
Not guilty	0	0	6	6	4
Dismissed	0	14	13	17	25
Withdrawn	28	17	51	41	31
Stayed	0	0	0	0	0
Quashed	7	0	2	0	0
Total	**43**	**43**	**129**	**112**	**79**
Summary Offense Tickets (SOT) Decided**	7	5	20	*	*
Guilty	6	3	16	*	*

* The power to issue summary offence tickets was not in place at this time.
** Note - Summary Offence Tickets that go to trial are still counted as Summary Offence Tickets; not in the Full Form Prosecution

Case by Case results (Full Form Prosecutions - Guilty Only)

Accused	Charges Decided in 2006/2007	Total penalty
Transportation and Public Works	FPSR 24(1)(c)(a)	$20,000
Albert Francis Smith	OHSA 17(1)(c) & OHSA 74(1)(a)	$1,250
Annapolis Valley Peat Moss Company Ltd.	OHSA 74(1)(a) and OSGR 87(2) and OHSA 74(1)(a) and OSGR 88(4)	$21,500
Scozinc Ltd.	OHSA 182(a) & OHSA 74(1)(a) and OSGR 82	$2,000
Joneljim Concrete Construction (1994) Limited	OHSA 74(1)(a) and OSGR 82 and FPSR 7(1)(b)	$50,000
Nation Gypsum (Canada) Ltd. & Patrick C. Mills(Director)	OHSA 13(1)(a) & OHSA 74(1)(a)	$8,625
ACL Construction Ltd.	OHSA 74(1)(b)(i)	$5,000

Guilty Summary Offence Ticket Verdicts

Accused	Charges Decided in 2006/2007	Total penalty
Ledwidge Lumber company Ltd. - Doug Ledwidge	OHSA 74(1)(b)(i)	$800
C.K.F. Inc.	OHSA 74(1)(b)(i)	$800
C.K.F. Inc.	OHSA 74(1)(b)(i)	$800
HalCraft Printing Ltd. (Brian Arkelian, Vice President)	OHSA 74(1)(h)(i)	$800
HalCraft Printing Ltd. (Brian Arkelian, Vice President)	OHSA 74(1)(b)(i)	$800
Sunny Corner Enterprises Inc. - Kevin Grant	OHSA 56(1)	$450

* Summary Offence Tickets that go to trial may have the penalty amount of the fine varied by the Judge

Appendix H - Other Items Included as Information

Public Information

As part of the Division's mission "To establish, promote and enforce clear standards to reduce occupational injury and illness", the Division maintains a strong effort to continuously promote and increase client awareness of OH&S in general and OH&S laws specifically. This effort includes:

1. support for other major events like:
   a. North American Occupational Safety and Health Week
   b. the Nova Scotia Safety Council Annual Conference (for which the Division was a Platinum sponsor in 2006)
   c. the National Day of Mourning and Davis Day
   d. Nova Scotia - Canada Skills Competition
2. an inquiry/question answering service accessible either through a toll-free call or the Internet
3. a large and frequently-visited Internet site
4. alone or in concert with our partners, free courses on OH&S laws and other topics
5. participation on a wide range of stakeholder committees
6. contributing to the funding for the Inquiry Service of the Canadian Centre for Occupational Health and Safety
7. special initiatives, such as participation in the WCB sessions launching their prevention initiatives.

	2006/ 2007	**2005/ 2006**	**2004 / 2005**	**2003 / 2004**	**2002 / 2003**
# Toll Free Calls Received	2,928	3,685	4,240	4,824*	3,768**
# Inquiries Received	462	1,909	2,870	630***	No Data Available

*Figure is based on prorated data for 11 months.
**Figure is based on prorated data for 5 months.
*** Data represents the time period from January 1, 2004 to March 31, 2004.

Major Initiatives

Projects started /completed over past year

The following are the major projects started or completed by the Division in 2006/2007.

Plain Language Initiative:

In an ongoing effort to make information more accessible to our clients, the Division continued work on our plain language initiative. This initiative involved:

1 Updating and maintaining our reference guides for all major regulations and Acts
2. Continuing work on plain language summaries of our laws. In 2006/2007, plain language summaries were completed for the Ventilation, Lighting, Sanitation and Accommodation and Handling and Storage parts of the Occupational Safety General Regulations
3. Writing three hazard alerts, dealing with:
   a. Flyrock Incidents in the Province of Nova Scotia
   b. Yard Crane Tipping Over
   c. Elevating Devices
4. Publishing a series of items for the new Occupational Diving Regulations, including
   a. An Overview of the Occupational Diving Regulations
   b. Plain Language Guide to the Occupational Diving Regulations for the Seafood Harvesting Industry
   c. Hiring Divers: The Basics - Infosheet ODR-1
   d. Diving Codes of Practice - Infosheet ODR-2
   e. Diving Supervisor's Record (Log Sheet) Diver's Logbook.

Diving Safety Strategy

The Division implemented the Diving Safety Strategy to complement the new Occupational Diving Regulations. The broad-based strategy included industry training, plain language guides and numerous support documents.

Partnerships

Workplace Safety and Insurance System

In cooperation with the other Workplace Safety and Insurance System (WSIS) partners, the Department introduced a new Governance and Accountability Framework for WSIS.

Within WSIS, a number of committees addressed issues and defined initiatives. These included:

1. Coordinating Committee, made up of the Deputy Minister of the Department of Environment and Labour and the Chair of the WCB
2. Head of Agencies Committee, made up of the operational heads of the four main WSIS partners
3. System Goals Advisory Committee, made up system stakeholders and representatives of the WSIS partners.

In partnership with the WSIS partners, the Division participated in:

1. The third annual general meeting for WSIS,
2. The implementation of the WSIS strategic plan,
3. Continuing work is continuing to integrate the business planning cycle of the agencies,
4. The support of an Internet site dedicated to WSIS,
5. Social marketing and advertising campaigns aimed at raising awareness about workplace safety,
6. The continued development of an Internet tool to allow employers access to OH&S information on their business. The Division component of this tool is scheduled for implementation in early 2008.

Significant Committee Activities, Events and Projects

The Division participated on the following major committees:

1. the OH&S subcommittee of the Canadian Association of Administrators of Labour Law (CAALL-OSH)
2. Canadian Standards Association technical committees on:
   a. the OH&S ergonomics standard
   b. head protection
   c. machine guarding
3. Farm Safety Committee
4. Forestry Safety Committee
5. North Amwerican Occupational Safety and Health Week Planning Committee.

The Division participated in the following major events:

1. The Annual Skills-Nova Scotia-Canada Competition
2. The WSIS annual general meeting
3. North American Occupational Health and Safety Week
4. The National Day of Mourning

5. Davis Day ceremonies
6. The Nova Scotia Safety Council annual conference.